

110TH CONGRESS  
1ST SESSION

# H. R. 4540

To reauthorize the impact aid program under the Elementary and Secondary Education Act of 1965.

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## IN THE HOUSE OF REPRESENTATIVES

DECEMBER 13, 2007

Ms. HIRONO (for herself and Mr. TERRY) introduced the following bill; which was referred to the Committee on Education and Labor

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## A BILL

To reauthorize the impact aid program under the Elementary and Secondary Education Act of 1965.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Fair Funding for  
5 Schools Act”.

6 **SEC. 2. PAYMENTS RELATING TO FEDERAL ACQUISITION**  
7 **OF REAL PROPERTY.**

8 Section 8002 of the Elementary and Secondary Edu-  
9 cation Act of 1965 (20 U.S.C. 7702) is amended—

1           (1) in subsection (a) by adding at the end the  
2           following: “The Secretary may base such a deter-  
3           mination on original records (including facsimiles or  
4           other reproductions of those records) documenting  
5           the assessed value of that real property, prepared by  
6           a legally authorized official as of the time of the  
7           Federal acquisition, or other records that the Sec-  
8           retary determines to be appropriate and reliable, in-  
9           cluding Federal agency records or local historical  
10          records.”;

11          (2) in subsection (f) by striking paragraphs (4)  
12          and (5);

13          (3) in subsection (h) by striking paragraphs (1)  
14          through (4) and inserting the following:

15               “(1) FOUNDATION PAYMENTS FOR CURRENT  
16               ELIGIBLE LOCAL EDUCATIONAL AGENCIES.—

17                       “(A) IN GENERAL.—The Secretary shall  
18                       first make a foundation payment to each local  
19                       educational agency that was eligible for a pay-  
20                       ment under this section for fiscal year 2006.

21                       “(B) AMOUNT.—The amount of a payment  
22                       under subparagraph (A) for a local educational  
23                       agency shall be equal to 90 percent of the local  
24                       educational agency’s calculated payment for fis-  
25                       cal year 2006.

1           “(C) INSUFFICIENT APPROPRIATIONS.—If  
2           the amount appropriated under section 8014(a)  
3           is insufficient to pay the full amount deter-  
4           mined under this paragraph for all eligible local  
5           educational agencies for the fiscal year, then  
6           the Secretary shall ratably reduce the payment  
7           to each local educational agency under this  
8           paragraph.

9           “(2) FOUNDATION PAYMENTS FOR LOCAL EDU-  
10          CATIONAL AGENCIES DEEMED ELIGIBLE AFTER FIS-  
11          CAL YEAR 2006.—

12           “(A) IN GENERAL.—From those funds re-  
13           maining after making payments under para-  
14           graph (1) for the fiscal year involved, the Sec-  
15           retary shall make a payment to each local edu-  
16           cational agency deemed eligible after fiscal year  
17           2006 for the fiscal year in which such agency  
18           was deemed eligible.

19           “(B) IN GENERAL.—The first payment  
20           made to a local educational agency under sub-  
21           paragraph (A) shall thereafter be treated as the  
22           foundation payment for that local educational  
23           agency.

1           “(C) AMOUNTS.—The amount of a pay-  
2           ment under subparagraph (A) for a local edu-  
3           cational agency shall be determined as follows:

4                   “(i) Calculate the local educational  
5                   agency’s maximum payment under sub-  
6                   section (b).

7                   “(ii) Calculate the percentage that the  
8                   amount appropriated under section  
9                   8014(a) for the most recent fiscal year for  
10                  which the Secretary has completed making  
11                  payments under this section is of the total  
12                  maximum payments for such fiscal year for  
13                  all eligible local educational agencies and  
14                  multiply the agency’s maximum payment  
15                  by such percentage.

16                  “(iii) Multiply the amount determined  
17                  under clause (ii) by 90 percent.

18           “(3) REMAINING FUNDS.—From any funds re-  
19           maining after making payments under paragraphs  
20           (1) and (2) for the fiscal year involved, the Sec-  
21           retary shall make a payment to each local edu-  
22           cational agency that received a foundation payment  
23           under paragraphs (1) or (2) for the fiscal year in-  
24           volved in an amount that bears the same relation to  
25           the remainder as a percentage share determined for

1 the local educational agency (by dividing the max-  
 2 imum amount that the agency is eligible to receive  
 3 under subsection (b) by the total of the maximum  
 4 amounts for all such agencies) bears to the percent-  
 5 age share determined (in the same manner) for all  
 6 local educational agencies eligible to receive a pay-  
 7 ment under this section for the fiscal year involved,  
 8 except that, for the purpose of calculating a local  
 9 educational agency's maximum payment under sub-  
 10 section (b), data from the most current fiscal year  
 11 shall be used.”;

12 (4) by striking subsections (i), (k), and (m);  
 13 and

14 (5) by redesignating subsections (l) and (n) as  
 15 (i) and (j), respectively.

16 **SEC. 3. PAYMENTS FOR ELIGIBLE FEDERALLY CONNECTED**  
 17 **CHILDREN.**

18 Section 8003 of that Act (20 U.S.C. 7703) is amend-  
 19 ed—

20 (1) in subsection (a)—

21 (A) in paragraph (1), in the matter pre-  
 22 ceding subparagraph (A), by inserting after  
 23 “such agency,” the following: “including those  
 24 children enrolled in a State that has a State  
 25 open enrollment policy (but not including chil-

dren enrolled in a distance learning program not residing within the defined boundaries of the agency),”;

(B) in paragraph (2)—

(i) by redesignating subparagraphs (D) through (F) as (E) through (G), respectively;

(ii) by inserting after subparagraph (C) the following:

“(D) Multiply the number of children described in subparagraph (A) and (B) of subsection (a)(1) by a factor of 1.35 if the local educational agency has a total student enrollment of not less than 25,000 students, of which not less than 50 percent are children described in (a)(1) and not less than 6,000 of such children are children described in subparagraph (A) and (B) of subsection (a)(1).”; and

(iii) in subparagraph (F) (as so redesignated) by striking “.10” and inserting “.05”;

(C) in paragraph (4)(B), in each of clauses (i)(I) and (ii)(I), by striking “3 fiscal years” and inserting “4 fiscal years”; and

(D) in paragraph (5) by inserting after “1984,” the following: “or under lease of off-base property under subchapter IV of chapter 169 of part IV of subtitle A of title 10, United States Code (10 U.S.C. 2871 et seq.),”;

(2) in subsection (b)(2)—

(A) in subparagraph (B)—

(i) in the subparagraph heading by striking “CONTINUING”;

(ii) in clause (i) by striking subclauses (I) and (II) and inserting the following:

“(I) is a local educational agency whose boundaries are the same as a Federal military installation or the boundaries are the same as island property designated by the Secretary of the Interior to be property that is held in trust by the Federal Government and the agency has no taxing authority, or the agency;

“(II) has an enrollment of children described in subsection (a)(1) that constitutes a percentage of the total student enrollment of the agency that is not less than 45 percent;

1 “(III) has a per-pupil expendi-  
2 ture that is less than—

3 “(aa) for a local educational  
4 agency that has a total student  
5 enrollment of 350 or more stu-  
6 dents, 120 percent of the average  
7 per-pupil expenditure of the  
8 State in which the agency is lo-  
9 cated; or

10 “(bb) for a local educational  
11 agency that has a total student  
12 enrollment of less than 350 stu-  
13 dents—

14 “(AA) 120 percent of  
15 the average per-pupil ex-  
16 penditure of the State in  
17 which the agency is located;  
18 or

19 “(BB) the average per-  
20 pupil expenditure of three  
21 comparable local educational  
22 agencies in the State in  
23 which the agency is located;

24 “(IV) has a tax rate for general  
25 fund purposes that is at least 95 per-



cent of the average tax rate for general fund purposes of comparable local educational agencies in the State; and

“(V) for a local educational agency that has an enrollment of children described in subsection (a)(1) that constitutes a percentage of the total student enrollment of the agency which is not less than 30 percent, and has a tax rate for general fund purposes which is not less than 125 percent of the average tax rate for general fund purposes for comparable local educational agencies in the State.”;

(iii) by adding at the end the following:

“(iv) SPECIAL RULE.—Notwithstanding clause (i)(II), a local educational agency shall be considered eligible to receive a basic support payment under subparagraph (A) with respect to the number of children determined under subsection (a)(1) if the agency—

1           “(I) has an enrollment of chil-  
2           dren described in subsection (a)(1)  
3           that constitutes a percentage of the  
4           total student enrollment of the agency  
5           that is not less than 35 percent in-  
6           cluding for purposes of determining  
7           eligibility those children described in  
8           subparagraph (F) and (G) of sub-  
9           section (a)(1); and

10           “(II) was eligible to receive as-  
11           sistance under subsection (b)(2) of  
12           section 8003 in fiscal year 2001.”;

13           (B) by striking subparagraphs (C), (D),  
14           and (E);

15           (C) by inserting after subparagraph (B)  
16           the following:

17           “(C) MAXIMUM AMOUNT FOR HEAVILY IM-  
18           PACTED LOCAL EDUCATIONAL AGENCIES.—

19           “(i) IN GENERAL.—The maximum  
20           amount that a heavily impacted local edu-  
21           cational agency is eligible to receive under  
22           this paragraph for any fiscal year is the  
23           sum of the total weighted student units, as  
24           computed under subsection (a)(2) and sub-

ject to clause (ii), multiplied by the greater  
of—

“(I) four-fifths of the average per-pupil expenditure of the State in which the local educational agency is located for the third fiscal year preceding the fiscal year for which the determination is made; or

“(II) four-fifths of the average per-pupil expenditure of all of the States for the third fiscal year preceding the fiscal year for which the determination is made.

“(ii) SPECIAL RULE.—(I)(aa) For a local educational agency with respect to which 35 percent or more of the total student enrollment of the schools of the agency are children described in subparagraph (D) or (E) (or a combination thereof) of subsection (a)(1), and has an enrollment of children described in subparagraph (A), (B), or (C) of such subsection equal to at least 10 percent of the agency’s total enrollment, the Secretary shall calculate the

1 weighted student units of those children  
2 described in subparagraph (D) or (E) of  
3 such subsection by multiplying the number  
4 of such children by a factor of 0.55.

5 “(bb) For any local educational agen-  
6 cy that received a payment under this  
7 clause in fiscal year 2006 the local edu-  
8 cational agency shall not be required to  
9 have an enrollment of children described in  
10 subparagraphs (A), (B), or (C) of such  
11 subsection equal to at least 10 percent of  
12 the agency’s total enrollment.

13 “(II) For a local educational agency  
14 that has an enrollment of 100 or fewer  
15 children described in subsection (a)(1), the  
16 Secretary shall calculate the total number  
17 of weighted student units for purposes of  
18 subsection (a)(2) by multiplying the num-  
19 ber of such children by a factor of 1.75.

20 “(III) For a local educational agency  
21 that does not qualify under (B)(i)(I) of  
22 this subsection and has an enrollment of  
23 more than 100 but not more than 1000  
24 children described in subsection (a)(1), the  
25 Secretary shall calculate the total number

1 of weighted student units for purposes of  
 2 subsection (a)(2) by multiplying the num-  
 3 ber of such children by a factor of 1.25.”;  
 4 (D) by redesignating subparagraph (F) as  
 5 (D) and, in that subparagraph—  
 6 (i) by striking clause (ii);  
 7 (ii) by striking “; and” at the end of  
 8 clause (i) and inserting a period; and  
 9 (iii) by striking “the Secretary—” and  
 10 all that follows through “shall use” and in-  
 11 serting “the Secretary shall use”;  
 12 (E) by redesignating subparagraph (G) as  
 13 (E) and, in that subparagraph, in the matter  
 14 preceding clause (i), by striking “(C)(i)(II)(bb)”  
 15 and inserting “(B)(i)(II)(bb)”;  
 16 (F) by redesignating subparagraph (H) as  
 17 (F) and, in that subparagraph—  
 18 (i) in clause (i)—  
 19 (I) by striking “(B), (C), (D), or  
 20 (E),” and inserting “(B) or (C),”;  
 21 (II) by striking “by reason of”  
 22 and inserting “due to”;  
 23 (III) by inserting after “clause  
 24 (iii),” the following: “or as the direct  
 25 result of base realignment and closure

1 or modularization as determined by  
2 the Secretary of Defense and force  
3 structure change or force relocation,”;  
4 and

5 (IV) by inserting before the pe-  
6 riod at the end the following: “or dur-  
7 ing such time as activities associated  
8 with base closure and realignment,  
9 modularization, force structure  
10 change, or force relocation is ongo-  
11 ing”; and

12 (ii) in clause (ii) by striking “(D) or  
13 (E)” both places such term appears and  
14 inserting “(C)”;

15 (3) in subsection (b)(3)(B)—

16 (A) by redesignating clause (iv) as (v); and

17 (B) by inserting after clause (iii) the fol-  
18 lowing:

19 “(iv) For any local educational agency  
20 that is providing a program of distant  
21 learning to children not residing within the  
22 legally defined boundaries of the agency,  
23 the Secretary shall disregard such children  
24 from such agency’s total enrollment when  
25 calculating the percentage under subclause

1 (I) of clause (i) and shall disregard any  
2 funds received for such children when cal-  
3 culating the total current expenditures at-  
4 tributed to the operation of such agency  
5 when calculating the percentage under sub-  
6 clause (II) of clause (i).”;

7 (4) in subsection (b)(3)(C) by striking “or (E)  
8 of paragraph (2), as the case may be” and inserting  
9 “of paragraph (2)”.

10 (5) in subsection (b)(3), by amending subpara-  
11 graph (D) to read as follows:

12 “(D) RATABLE DISTRIBUTION.—For any  
13 fiscal year described in subparagraph (A) for  
14 which the sums available exceed the amount re-  
15 quired to pay each local educational agency 100  
16 percent of its threshold payment the Secretary  
17 shall distribute the excess sums to each eligible  
18 local educational agency that has not received  
19 its full amount computed under paragraph (1)  
20 or (2) (as the case may be) by multiplying—

21 “(i) a percentage, the denominator of  
22 which is the difference between the full  
23 amount computed under paragraph (1) or  
24 (2) (as the case may be) for all local edu-  
25 cational agencies and the amount of the

1 threshold payment (as calculated under  
2 subparagraphs (B) and (C) of all local  
3 educational agencies, and the numerator of  
4 which is the aggregate amount of the ex-  
5 cess sums by:

6 “(ii) the difference between the full  
7 amount computed under paragraph (1) or  
8 (2) (as the case may be) for the agency  
9 and the amount of the threshold payment  
10 as calculated under subparagraphs (B) and  
11 (C) of the agency.”;

12 (6) in subsection (c) by amending paragraph  
13 (2) to read as follows:

14 “(2) EXCEPTION.—Calculation of payments for  
15 a local educational agency shall be based on data  
16 from the fiscal year for which the agency is making  
17 an application for payment if such agency:

18 “(A) is newly established by a State (first  
19 year of operation only), or

20 “(B)(i) was eligible to receive a payment  
21 under this section in the previous fiscal year  
22 and such agency has had an overall increase (as  
23 determined by the Secretary of Education in  
24 consultation with the Secretary of Defense, the  
25 Secretary of Interior or other Federal agencies)



1 of not less than 250 students or 10 percent as  
2 described in section 8003(a)(1)(A), (B), (C),  
3 (D) or (F) and (G) if those children described  
4 in (F) or (G) are civilian dependents of employ-  
5 ees of the Department of Defense and/or the  
6 Department of the Interior; and

7 “(ii) such increase occurred during the pe-  
8 riod between the end of the school year pre-  
9 ceeding the fiscal year for which the application  
10 is being made and the beginning of the school  
11 year immediately preceding that school year as  
12 the result of closure or realignment of military  
13 installations under the base closure process or  
14 the relocation of members of the Armed Forces  
15 and civilian employees of the Department of  
16 Defense as part of force structure changes or  
17 movements of units or personnel between mili-  
18 tary installations or because of actions initiated  
19 by the Secretary of Interior or other Federal  
20 agency.”;

21 (7) in subsection (e) by striking paragraphs (1)  
22 and (2) and inserting the following:

23 “(1) IN GENERAL.—Subject to paragraph (2),  
24 the total amount the Secretary shall pay a local edu-

1 cation agency received under subsection (b)(1),  
2 (b)(2) or (b)(2)(B)(ii)—

3 “(A) for fiscal year 2008 shall not be less  
4 than 90 percent of the total amount that the  
5 local education agency received under sub-  
6 section (b)(1), (b)(2) or (b)(2)(B)(ii) for fiscal  
7 year 2007;

8 “(B) for fiscal year 2009 shall not be less  
9 than 80 percent of the total amount that the  
10 local educational agency received under sub-  
11 section (b)(1), (b)(2) or (b)(2)(B)(ii) for fiscal  
12 year 2007;

13 “(C) for fiscal year 2010 shall not be less  
14 than 70 percent of the total amount that the  
15 local educational agency received under sub-  
16 section (b)(1), (b)(2) or (b)(2)(B)(ii) for fiscal  
17 year 2007 of which such amount shall be con-  
18 sidered a foundation payment for each suc-  
19 ceeding fiscal year until such time as the agen-  
20 cy’s maximum payment as determined under  
21 paragraphs (1) or (2) of subsection (b) as the  
22 case may be, exceeds the amount provided for  
23 under this subparagraph.

24 “(2) Ratable Reduction.—

“(A) IN GENERAL.—If the sums made available under this title for any fiscal year are insufficient to pay the full amounts that all local educational agencies in all States are eligible to receive under paragraph (1) for such year, then the Secretary shall ratably reduce the payments to all agencies for such year.

“(B) ADDITIONAL FUNDS.—If additional funds become available for making payments under paragraph (1) for such fiscal year, payments that were reduced under subparagraph (A) shall be increased on the same basis as such payments were reduced.”; and  
(8) by striking subsection (g).

**SEC. 4. CONSTRUCTION.**

Section 8007 of that Act (20 U.S.C. 7707) is amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking “40 percent” and inserting “80 percent”;

(B) in paragraph (2) by adding at the end the following:

“(C) The agency is eligible under section 8003(b)(2) or is receiving a basic support pay-

1           ment under circumstances described in section  
2           8003 (b)(2)(B)(ii).”; and

3           (C) by striking paragraph (3) and insert-  
4           ing the following:

5           “(3) AMOUNT OF PAYMENTS.—

6           “(A) LOCAL EDUCATIONAL AGENCIES IM-  
7           PACTED BY MILITARY DEPENDENT CHIL-  
8           DREN.—The amount of a payment to each local  
9           educational agency described in this subsection  
10          that is impacted by military dependent children  
11          for fiscal year shall be equal to—

12               “(i)(I) 40 percent of the amount ap-  
13               propriated under section 8014(e) for such  
14               fiscal year; divided by

15               “(II) the number of children described  
16               in subparagraphs (B) and (D)(i) of section  
17               8003(a)(1) who were in average daily at-  
18               tendance for all local educational agencies  
19               described in paragraph (2), including the  
20               number of children attending a school fa-  
21               cility described in section 8008(a) if the  
22               Secretary does not provide assistance for  
23               the school facility under that section for  
24               the fiscal year; multiplied by

1 “(ii) the number of children deter-  
2 mined for such agency;

3 “(I) but not less than \$25,000,  
4 except that this subparagraph shall  
5 not apply if the amount available to  
6 carry out paragraph (1) for such fis-  
7 cal year is less than \$32,000,000; and

8 “(II) not more than \$3,000,000.

9 “(B) LOCAL EDUCATIONAL AGENCIES IM-  
10 PACTED BY CHILDREN WHO RESIDE ON INDIAN  
11 LANDS.—The amount of a payment to each  
12 local educational agency described in this sub-  
13 section that is impacted by children who reside  
14 on Indian lands for a fiscal year shall be equal  
15 to—

16 “(i)(I) 40 percent of the amount ap-  
17 propriated under section 8014(e) for such  
18 fiscal year divided by

19 “(II) the number of children described  
20 in section 8003(a)(1)(C) who were in aver-  
21 age daily attendance for all local edu-  
22 cational agencies described in paragraph  
23 (2); multiplied by—

24 “(ii) the number of children deter-  
25 mined for such agency;

1                   “(I) but not less than \$25,000,  
2                   except that this subparagraph shall  
3                   not apply if the amount available to  
4                   carry out paragraph (1) for such fis-  
5                   cal year is less than \$32,000,000 and  
6                   “(II) not more than  
7                   \$3,000,000.”; and

8                   (2) in subsection (b)—

9                   (A) in paragraph (1), in the matter pre-  
10                  ceding subparagraph (A), by striking “60 per-  
11                  cent” and inserting “20 percent”;

12                  (B) in paragraph (3)(A), in the matter  
13                  preceding clause (i), by inserting after “an  
14                  emergency grant under paragraph (2)(A)” the  
15                  following: “if the agency is covered by para-  
16                  graph (7), or”;

17                  (C) in paragraph (3)(C)(i)(I) by striking  
18                  “the agency meets at least one” and all that  
19                  follows through the period at the end and in-  
20                  serting “the number of children determined  
21                  under section 8003(a)(1)(C) for the agency for  
22                  the preceding school year constituted at least  
23                  40 percent of the total student enrollment in  
24                  the schools of the agency during the preceding  
25                  school year.”;

1 (D) by striking paragraph (3)(D)(ii)(II)  
 2 and inserting the following:

3 “(II) The number of children de-  
 4 termined under section 8003(a)(1)(C)  
 5 for the school for the preceding school  
 6 year constituted at least 40 percent of  
 7 the total student enrollment in the  
 8 school during the preceding school  
 9 year.”;

10 (E) in paragraph (4)(C) by striking “(A),  
 11 (B), (C), and (D)” and inserting “(A) and  
 12 (C)”;

13 (F) by redesignating paragraph (7) as  
 14 paragraph (8); and

15 (G) by inserting after paragraph (6) the  
 16 following:

17 “(7) SPECIAL RULE.—Notwithstanding para-  
 18 graphs (3)(C)(i)(I) and (3)(D)(ii)(II), a local edu-  
 19 cational agency is eligible to receive a grant under  
 20 this subsection not to exceed \$3,000,000 in any one  
 21 fiscal year if such agency—

22 “(A) was eligible to receive a payment  
 23 under section 8003 for the fiscal year prior to  
 24 the year for which the application is made; and

1 “(B) has had an overall increase in enroll-  
2 ment—

3 “(i) during the period between the end  
4 of the school year preceding the fiscal year  
5 for which the application is made and the  
6 beginning of the school year immediately  
7 preceding that school year;

8 “(ii) of not less than 250 students or  
9 10 percent (whichever is lower), are chil-  
10 dren described in—

11 “(I) subparagraph (A), (B), (C),  
12 or (D) of section 8003(a) (1); or

13 “(II) subparagraph (F) or (G) of  
14 section 8003(a) (1), but only to the  
15 extent such children are civilian de-  
16 pendents of employees of the Depart-  
17 ment of Defense; and

18 “(iii) that is the direct result of one or  
19 more of the following:

20 “(I) Base realignment and clo-  
21 sure or global rebasing, as determined  
22 by the Secretary of Defense.

23 “(II) Force structure changes or  
24 force reductions.



1                   “(III) An action initiated by the  
2                   Secretary of Interior or other Federal  
3                   agency.”.

4 **SEC. 5. STATE CONSIDERATION OF PAYMENTS IN PRO-**  
5 **VIDING STATE AID.**

6       Section 8009 of that Act (20 U.S.C. 7709) is amend-  
7 ed—

8           (1) in subsection (b)(1) by inserting before the  
9       period at the end the following: “and for which the  
10      average per pupil expenditure is equal to or greater  
11      than the average per pupil expenditure of all the  
12      States in the third fiscal year preceding the fiscal  
13      year for which the State is applying for equalization  
14      under the section”;

15          (2) in subsection (b)(2) by striking subpara-  
16      graphs (A) and (B) and inserting the following:

17               “(A) STATES CURRENTLY QUALIFYING.—

18                   “(i) IN GENERAL.—For purposes of  
19              paragraph (1), a program of State aid for  
20              any State qualifying under this section in  
21              fiscal year 2006 equalizes expenditures  
22              among local educational agencies if, in the  
23              second fiscal year preceding the fiscal year  
24              for which the determination is made the  
25              amount of per-pupil expenditures made by,

1 or per-pupil revenues available to, the local  
2 educational agency in the State with the  
3 highest such per-pupil expenditures or rev-  
4 enues did not exceed the amount of such  
5 per-pupil expenditures made by, or per-  
6 pupil revenues available to, the local edu-  
7 cational agency in the State with the low-  
8 est such expenditures or revenues by more  
9 than 25 percent as calculated under clause  
10 (i).

11 “(ii) OTHER FACTORS.—In making a  
12 determination under this subparagraph,  
13 the Secretary notwithstanding regulations  
14 in use prior to the enactment of this Act  
15 shall—

16 “(I) arrange all local educational  
17 agencies in the State by per-pupil ex-  
18 penditures or revenues in descending  
19 order from the highest to the lowest;

20 “(II) using per pupil expendi-  
21 tures or revenues as the only criteria  
22 disregard those local educational  
23 agencies that are spending above the  
24 95th percentile and those spending  
25 below the 5th percentile;

1           “(III) identify the local edu-  
2           cational agency at the 95th percentile  
3           and the local educational agency at  
4           the 5th percentile;

5           “(IV) subtract the amount of  
6           per-pupil expenditures or revenues of  
7           the local educational agency at the  
8           5th percentile from the amount of  
9           per-pupil expenditures or revenues of  
10          the local educational agency at the  
11          95th percentile and divide the dif-  
12          ference by the per-pupil expenditures  
13          or revenues of the local educational  
14          agency at the 5th percentile; and

15          “(V) take into account the extent  
16          to which a program of State aid re-  
17          flects the additional cost of providing  
18          free public education in particular  
19          types of local educational agencies,  
20          such as those that are geographically  
21          isolated, or to particular types of stu-  
22          dents, such as children with disabil-  
23          ities.

24          “(B) NEW STATES APPLICANTS.—

1           “(i) IN GENERAL.—For purposes of  
2           paragraph (1), a program of State aid for  
3           this section after fiscal year 2006 equalizes  
4           expenditures among local educational agen-  
5           cies if, in the second fiscal year preceding  
6           the fiscal year for which the determination  
7           is made, the amount of per-pupil expendi-  
8           tures made by, or per pupil revenues avail-  
9           able to, the local educational agency in the  
10          State with the highest such per-pupil ex-  
11          penditures or revenues did not exceed the  
12          amount of such per-pupil expenditures  
13          made by, or per-pupil revenues available  
14          to, the local educational agency in the  
15          State with the lowest such expenditures or  
16          revenues by more than 10 percent as cal-  
17          culated under clause (i).

18          “(ii) OTHER FACTORS.—In making a  
19          determination under this subparagraph,  
20          the Secretary notwithstanding regulations  
21          in use prior to the enactment of this Act  
22          shall—

23                  “(I) arrange all local educational  
24                  agencies in the State by per pupil ex-

penditures or revenues in descending order from the highest to the lowest;

“(II) using per-pupil expenditures or revenues as the only criteria disregard those local educational agencies that are spending above the 95th percentile and those spending below the 5th percentile;

“(III) identify the local educational agency at the 95th percentile and the local educational agency at the 5th percentile;

“(IV) subtract the amount of per-pupil expenditures or revenues of the local educational agency at the 5th percentile from the amount of per-pupil expenditures or revenues of the local educational agency at the 95th percentile and divide the difference by the per-pupil expenditures or revenues of the local educational agency at the 5th percentile; and

“(V) take into account the extent to which a program of State aid reflects the additional cost of providing

1 free public education in particular  
 2 types of local educational agencies,  
 3 such as those that are geographically  
 4 isolated, or to particular types of stu-  
 5 dents, such as children with disabil-  
 6 ities.”; and

7 (3) in subsection (d)(2)—

8 (A) by striking “A State” and inserting  
 9 the following:

10 “(A) IN GENERAL.—A State”; and

11 (B) by adding at the end the following:

12 “(B) STATES THAT ARE NOT EQUALIZED  
 13 STATES.—A State that has not been approved  
 14 as an equalized State under subsection (b) shall  
 15 not consider funds received under section 8002  
 16 or section 8003 of this title in any State for-  
 17 mula or place a limit or direct the use of such  
 18 funds or consider such funds in any State for-  
 19 mula.”.

20 **SEC. 6. DEFINITIONS.**

21 Section 8013 of that Act (20 U.S.C. 7713) is amend-  
 22 ed—

23 (1) in paragraph (1) by striking “and Marine  
 24 Corps” and inserting “Marine Corps, and Coast  
 25 Guard”;

1           (2) in paragraph (9) by adding at the end the  
2 following:

3           “(C) NEW LOCAL EDUCATIONAL AGEN-  
4 CIES.—Except for those agencies deemed eligi-  
5 ble under section 8003 prior to the enactment  
6 of this subparagraph, any new local educational  
7 agency making application must have bound-  
8 aries as defined by State law and which has  
9 been granted the authority to tax or to receive  
10 an imputed tax from either a city, county or  
11 township body.”.

12 **SEC. 7. AUTHORIZATION OF APPROPRIATIONS.**

13       Section 8014 of that Act (20 U.S.C. 7714) is amend-  
14 ed—

15           (1) in subsection (a) by striking “\$32,000,000  
16 for fiscal year 2000” and inserting “\$75,000,000 for  
17 fiscal year 2008”;

18           (2) in subsection (b) by striking “\$809,400,000  
19 for fiscal year 2000” and inserting “\$1,225,000,000  
20 for fiscal year 2008”;

21           (3) in subsection (c) by striking “\$50,000,000  
22 for fiscal year 2000” and inserting “\$55,000,000 for  
23 fiscal year 2008”;

24           (4) by redesignating subsection (e) as (d) and,  
25 in that subsection, by striking “\$10,052,000” and

1 all that follows through “and such sums” and insert-  
 2 ing “\$150,000,000 for fiscal year 2008 and such  
 3 sums”;

4 (5) by redesignating subsection (f) as (e) and,  
 5 in that subsection, by striking “\$5,000,000 for fiscal  
 6 year 2000” and inserting “\$10,000,000 for fiscal  
 7 year 2008”; and

8 (6) by adding at the end the following:

9 “(f) ALLOCATION OF DOLLARS FROM PREVIOUS FIS-  
 10 CAL YEARS.—When final payments are made for a fiscal  
 11 year the Secretary shall add any remaining funds to those  
 12 funds appropriated for such section for the next fiscal year  
 13 for the purpose of making payments subject to the provi-  
 14 sions of the applicable section.”.

15 **SEC. 8. CONFORMING REPEAL.**

16 Subpart 20 (20 U.S.C. 7281 et seq.) of part D of  
 17 title V of that Act (relating to additional assistance for  
 18 certain local educational agencies impacted by Federal  
 19 property acquisition) is repealed.

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